

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

|                               |   |                                 |
|-------------------------------|---|---------------------------------|
| CSX TRANSPORTATION, INC. and  | ) |                                 |
| THE UNITED STATES OF AMERICA, | ) |                                 |
|                               | ) |                                 |
| Plaintiffs,                   | ) |                                 |
|                               | ) |                                 |
| v.                            | ) | Civil Action No. 05-00338 (EGS) |
|                               | ) |                                 |
| WILLIAMS <i>et al.</i> ,      | ) |                                 |
|                               | ) |                                 |
| Defendants.                   | ) |                                 |

**CSXT’S MOTION FOR  
SUMMARY JUDGMENT AS TO THE TEMPORARY ACT**

Plaintiff CSX Transportation, Inc. (“CSXT” or “Plaintiff”) respectfully moves this Court for summary judgment pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1.

As set out more fully in the accompanying Memorandum of Points and Authorities, CSXT seeks summary judgment on its claims that:

- the District of Columbia Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005, D.C. Act 16-78 (the “Temporary Act”) is preempted under the express preemption provision of the Federal Railroad Safety Act, 49 U.S.C. § 20106, and the Supremacy Clause of the United States Constitution (Art. VI, ¶ 2);
- the Temporary Act is preempted under the express preemption provisions of the Hazardous Materials Transportation Act, 49 U.S.C. § 5125(a) and (b), and the Supremacy Clause of the United States Constitution (Art. VI, ¶ 2); and

- the Temporary Act is *per se* invalid on its face under the Commerce Clause of the United States Constitution (Article I, § 8, cl. 3).

CSXT's accompanying Statement of Material Facts as to Which There Is No Genuine Issue demonstrates that no genuine dispute of material fact exists in this case. As set out more fully in the accompanying Memorandum, this Court should grant summary judgment to CSXT under the reasoning of the May 3, 2005 decision of the United States Court of Appeals for the District of Columbia Circuit in this case. *CSX Transp., Inc. v. Williams*, 406 F.3d 667 (D.C. Cir. 2005). That decision and other applicable Supreme Court and lower federal court precedent establish that the Temporary Act is invalid on its face as a matter of law. Accordingly, CSXT seeks a declaration that the Temporary Act is invalid and seeks a permanent injunction prohibiting defendants Mayor Williams and District of Columbia from enforcing this law (or any permanent version of it).

The granting of this dispositive motion will fully resolve this case, avoiding unnecessary discovery and trial preparation and conserving the resources of the judicial system.

Respectfully submitted,

Dated: June 24, 2005

/s/ Mary Gabrielle Sprague

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## **CERTIFICATE OF SERVICE**

I hereby certify that on June 24, 2005, copies of CSXT's Motion for Summary Judgment as to the Temporary Act, Memorandum of Points and Authorities in Support of CSXT's Motion for Summary Judgment as to the Temporary Act, and Statement of Material Facts as to Which There Is No Genuine Dispute in Support of CSXT's Motion for Summary Judgment as to the Temporary Act were served electronically by the U.S. District Court for the District of Columbia Electronic Document Filing System (ECF), on the following:

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